

Dockets



Federal Communications Commission
Washington, D.C. 20554

JUL 26 1996

The Honorable Benjamin L. Cardin
U. S. House of Representatives
540 East Belvedere Avenue, Suite 201
Baltimore, Maryland 21212-3750

DOCKET FILE COPY ORIGINAL

Dear Congressman Cardin:

Thank you for your letter dated July 12, 1996, on behalf of your constituent, Richard Berman. Mr. Berman expresses concern regarding the Commission's policies with respect to 800 MHz Specialized Mobile Radio (SMR) service. Specifically, Mr. Berman states that the SMR system that his business uses has been acquired by Nextel Communications (Nextel), and that Nextel intends to replace the existing system with a new digital system that will require Mr. Berman to obtain new equipment.

With respect to Mr. Berman's specific concerns, we note that companies, such as Nextel, may acquire as many systems in their area as they wish, provided the acquisitions are done within the confines of the Commission's rules. Further, the Commission does not dictate the type of equipment to be used by SMR licensees. In light of the constant technological advances in mobile radio technology, we have found it preferable to allow licensees to freely adapt and upgrade their technology in response to customer demand rather than to impose rigid technical requirements by regulation. While we recognize that equipment changes may sometimes cause disruption to customers, the array of new services and technologies being introduced to the market will offer substantial public benefits.

The Commission is also taking several steps to ensure that customers such as Mr. Berman have competitive and low-cost alternatives available to them if a given service provider raises rates or requires them to undergo an expensive equipment upgrade. For instance, in addition to 800 MHz SMR channels, there are in the Baltimore area several hundred channels allocated for land mobile radio services targeted to business, industrial, land transportation, and public safety uses. In addition, the Commission is licensing land mobile radio service providers in the 900 MHz SMR service, and is conducting a rulemaking to increase capacity for mobile radio users on UHF frequencies. Finally, the Commission has recently allowed common carriers such as cellular licensees to enter the dispatch radio market, which our regulations previously did not allow. With these changes in our rules, there are now many more licensees who are eligible to provide the type of low-cost mobile radio service that Mr. Berman seeks.

With respect to the 800 MHz SMR service itself, the Commission is conducting a rulemaking to ensure that no one provider dominates the service, but that competitive alternatives are available. On December 15, 1995, the Commission released a First Report and Order, Eighth Report and Order, and Second Further Notice of Proposed Rule Making (First Report and Order) in PR Docket No. 93-144, in which it adopted new rules and issued several new proposals for the 800 MHz service. In that Order, the Commission designated 200 channels to be licensed in blocks based on large geographic areas for large SMR

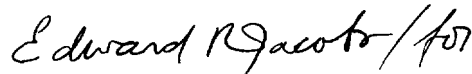
The Honorable Benjamin L. Cardin

2.

operators who want to provide wide-area service. At the same time, the Commission proposed to designate 230 additional channels for provision of SMR by small businesses. While this rulemaking is still ongoing, it is our goal to provide opportunities for both large companies such as Nextel and other, smaller operators to provide service and compete for the business of customers such as Mr. Berman. For your information, I am enclosing a copy of the press release concerning the First Report and Order, which includes a summary of the principal decisions and proposals made.

Thank you for your inquiry.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward R. Jacobs / furth".

David L. Furth
Chief, Commercial Wireless Division
Wireless Telecommunications Bureau

Enclosure

BENJAMIN L. CARDIN
3D DISTRICT, MARYLAND

COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON HEALTH
SUBCOMMITTEE ON OVERSIGHT

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Congress of the United States
House of Representatives
Washington, DC 20515-2003

COMMISSIONER
COMMISSION ON SECURITY
AND COOPERATION IN EUROPE

DEMOCRATIC CAUCUS
STEERING COMMITTEE

ASSISTANT DEMOCRATIC WHIP

*PRB
Haw*

3692

July 12, 1996

Mr. Daniel Phythyon
Director, Legislative & Intergovernmental Affairs
Federal Communications Commission
1919 M Street Room 808
Washington, D.C. 20554

Dear Mr. Phythyon:

I am writing on behalf of my constituent, Richard Berman, owner and operator of Berman Towing, located at 6109 Oakleaf Avenue, Baltimore, MD 21215. Mr. Berman has owned and operated this business for decades and has recently experienced a very disquieting series of events.

As is obvious, Mr. Berman's business makes constant use of a two-way radio system to stay in touch with his fleet of tow trucks. Over the years, he has paid for the use of a transmission tower. The tower he has used for many years has recently been purchased by NEXTEL, Corp. which is upgrading and adapting the tower for use by cellular phone companies. These alterations would require that users, like Mr. Berman, purchase new digital equipment which he would find prohibitive within his current operating budget.

His questions to us, and therefore, to you are: 1) does Nextel's ownership of all the towers in the vicinity of his user area constitute a monopoly and is this legal? 2) Can they require that he upgrade his equipment or can they continue to provide his traditional service as well as their new digital service? 3) Finally, is this a problem around the country and if so, is the FCC addressing it?

I appreciate the opportunity of your reviewing this very complicated issue. I look forward to receiving your prompt response to share with Mr. Berman. If you need to discuss this request, you may speak with Marianne Kreitner in my Baltimore Office at 410/433-8886.

Sincerely,

Benjamin L. Cardin
Benjamin L. Cardin
Member of Congress

BENJAMIN L. CARDIN
3D DISTRICT, MARYLAND

COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON HEALTH
SUBCOMMITTEE ON HUMAN RESOURCES

COMMITTEE ON HOUSE ADMINISTRATION

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

COMMISSIONER
COMMISSION ON SECURITY
AND COOPERATION IN EUROPE

DEMOCRATIC CAUCUS
STEERING COMMITTEE

ASSISTANT MAJORITY WHIP

Congress of the United States
House of Representatives
Washington, DC 20515-2003

FACSIMILE TRANSMITTAL SHEET

DATE:

July 12, 1996

TO :

Lou Sizemore

FAX NUMBER:

1-202/488-2806

FROM:

Marianne Kreitner

Office of Congressman Benjamin L. Cardin
540 E. Belvedere Avenue
Suite 201
Baltimore, Maryland 21212
410-433-8886 / 410-433-2110 FAX

COMMENTS:

per conversation
w/ Theresa Vess

NUMBER OF PAGES TO FOLLOW:

1

BENJAMIN L. CARDIN
30 DISTRICT, MARYLAND

COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON HEALTH
SUBCOMMITTEE ON OVERSIGHT

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

COMMISSIONER
COMMISSION ON SECURITY
AND COOPERATION IN EUROPE

DEMOCRATIC CAUCUS
STEERING COMMITTEE

ASSISTANT DEMOCRATIC WHIP

Congress of the United States
House of Representatives
Washington, DC 20515-2003

July 12, 1996

Mr. Daniel Phythyon
Director, Legislative & Intergovernmental Affairs
Federal Communications Commission
1919 M Street Room 808
Washington, D.C. 20554

Dear Mr. Phythyon:

I am writing on behalf of my constituent, Richard Berman, owner and operator of Berman Towing, located at 6109 Oakleaf Avenue, Baltimore, MD 21215. Mr. Berman has owned and operated this business for decades and has recently experienced a very disquieting series of events.

As is obvious, Mr. Berman's business makes constant use of a two-way radio system to stay in touch with his fleet of tow trucks. Over the years, he has paid for the use of a transmission tower. The tower he has used for many years has recently been purchased by NEXTEL, Corp. which is upgrading and adapting the tower for use by cellular phone companies. These alterations would require that users, like Mr. Berman, purchase new digital equipment which he would find prohibitive within his current operating budget.

His questions to us, and therefore, to you are: 1) does Nextel's ownership of all the towers in the vicinity of his user area constitute a monopoly and is this legal? 2) Can they require that he upgrade his equipment or can they continue to provide his traditional service as well as their new digital service? 3) Finally, is this a problem around the country and if so, is the FCC addressing it?

I appreciate the opportunity of your reviewing this very complicated issue. I look forward to receiving your prompt response to share with Mr. Berman. If you need to discuss this request, you may speak with Marianne Kreitner in my Baltimore Office at 410/433-8886.

Sincerely,

Benjamin L. Cardin
Benjamin L. Cardin
Member of Congress